

REMARKS AND ARGUMENTS

The Office Action dated May 29, 2009 has been carefully reviewed, together with the claims of the captioned application and the new prior art cited in the rejection of the claims. For the reasons set forth below it is believed that the claims of the application are patentable over the prior art of record.

Status of the Claims

Claims 1-15 and 21-27 are pending in the captioned application.

Claim 27 is allowed.

Claims 8 and 9 are objected to.

Claims 1-7, 10-15 and 21-26 are rejected over the prior art.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 10, 24 and 25 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claim 24 is rejected as being indefinite by being unclear. Applicant has previously requested that the Examiner articulate why such claim is unclear, but the rejection is maintained by stating only what phrase is unclear. As a result of the unclear rejection, Applicant is forced to guess as to an amendment in order to overcome the rejection of such claim.

The Examiner has repeated the rejection of Claim 25 as being indefinite, again on the basis of being unclear. Much like claim 24 above, claim 25 has been amended in the hopes that the Applicant guessed at the proper reasons that such claim is considered by the Examiner as being unclear.

Rejections Under 35 U.S.C. § 102

____ Claims 1, 7, 12 and 21 are rejected as being unpatentable over U.S. Pat. No. 5,219,399 by Brana.

____ The Brana reference discloses a fuel switch and a fuel heater for heating fuel before it enters the carburetor of a vehicle. The fuel switch allows the fuel to be directed to the carburetor either through the heater, or around the heater. Thus, the driver can choose whether to allow the carburetor to use fuel directly from the tank, or heated before it enters the carburetor. The Brana reference does not disclose the use of any magnets that condition the fuel.

Claim 1 has been amended to delete the term “aftermarket apparatus” and specify a “magnet.” Claim 1 thus specifies a switch mechanism that switches the magnet into operation and out of operation. The switch disclosed in the Brana reference is not effective to switch any magnet into operation and out of operation.

While the Po et al (“Po”) reference was not cited in the rejection of claim 1, it is noted that such claim is nevertheless patentable over the Po reference. The switch 14 disclosed in the Po reference simply controls the electrical current to the fuel heater 10. Irrespective of the state of the switch 14, the fuel still flows through the line that is influenced by the magnet 21, and the magnet always influences the fuel coupled to the carburetor. In other words, the operation of the magnet on the fuel is independent of whether the switch 14 is operated to heat the fuel, or not.

Claim 1 has been amended to specify that when the switch switches the magnet into operation modified fuel is coupled to the engine and when the magnet is switched out of operation unmodified fuel is coupled to the engine. As such, claim 1 is not made unpatentable in view of the Po reference.

Claims 7, 12 and 21

Claims 7, 12 and 21 are believed to be patentable for the same reasons noted above in connection with claim 1.

Rejections Under 35 U.S.C. § 103(a)

Claims 2-5, 10, 13-15 and 22-25 are rejected as being unpatentable over the Brana reference, in view of the Takada reference.

Claims 2-5, 10, 13-15 and 22-25 are believed to be patentable for the same reasons noted above in connection with claim 1. Moreover, such claims are believed to be patentable for the same reasons noted in previous responses to Office Actions, which are included herein by reference, for purposes of appeal.

Rejections Under 35 U.S.C. § 103(a)

Claims 6, 11 and 26 are rejected as being unpatentable over the Brana reference and the Takada reference, and further in view of the Po et al (“Po”) reference. The Po reference has been discussed above in connection with claim 1.

Claims 6 and 11

Claims 6 and 11 are believed to be patentable for the same reasons noted above in connection with claim 1.

Claim 26

Claim 26 has been amended to specify that the aftermarket apparatus is not apparatus that heats the fuel. Since the Po reference discloses switchable apparatus that heats the fuel, claim 26 is patentable over the prior art of record.

Conclusion

In view of the foregoing, the Examiner is respectfully requested to reconsider the rejections of the claims and grant full allowance of the application.

Respectfully submitted,
Attorney for Applicant

A handwritten signature in black ink, appearing to read "Roger N. Chauza".

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